

Characteristics of Cambodian Land Concession

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Abstract

This study examined the economic and social land concession in Cambodia. The society not only progressed, but also provided work to the people. This study purposely explored the policy of economic land concessions provided by the royal government of Cambodia. This was about the solution that made the standard of comfortable living. At this point and which made people live a prosperous life and reduce poverty in line with the government's policies, in which it was an important compass in the development of the nation for progress. All sectors should facilitate the adaptation to market needs in the era of globalization. By developing the economic sector, it was needed for country to handle sustainable development. The government also created a new political party to be a driving force to accelerate economic growth through the press and related institutions. With investment purposes and the government, it also opened up the horizons for foreign investment. Economic land concession was an important key to do its national economic development. The impact of economic land concessions continued to show us significant trends of economic land concessions.

Key words: *Concession, land concession, policy, poverty, land concession trend*

1. Introduction

The policy of economic and social land concession is needed to reform and implement. Society has not only progress in developing the economics, but also needs to deal with challenges of people life and poverty. Since the government has established the provision of economic land concession policy, the people living near the area has job, make the standard of comfortable living. When there is development in any area, the people can have job and live with a prosperous life – having food, shelter, clothing, and employees. Economic land concession can make reduce the poverty in line with the government's policies. This is a compass in the development of nation progress (announcement, 2007). With economic and sustainable development, the royal government of Cambodia need the creation of new political party – being a driving force to accelerate economic growth. By developing the economic growth, it requires to have the opened-up policy with the horizons

for foreign investment. Obviously, the royal government establishes a policy for providing economic land concessions. This study focuses on the social and economic land concessions (Annual Report,1991). Land concession is a main key to develop national economics. The government should find funds, investors, and partners for investment (Annual Report 1999). The land concession effectively influences social and economic land concessions and provides significant trends. Social and economic land concessions positively impact on the traditional livelihoods, interference, and work.

2. Conceptual Framework of Literature

Overview of Economic Land Concessions in Cambodia

With economic land concessions in Cambodia, the 2004 report listed 64 companies with concession contracts or letters of the request for approval of the economic land concession proposals in 13 provinces. According to information provided by the Ministry of Agriculture, Forestry and Fisheries (2007), the Royal Government of Cambodia granted 97 economic land concessions in 16 provinces and municipalities in Cambodia. Of these, nine concessions were approved in principle by the Council of Ministers, covering an area of 64,208 hectares, but the concession contracts had not yet been signed. During this period, Ministry of Agriculture, Forestry and Fisheries confirmed that 30 companies' contracts had been cancelled, covering an area of 265,230 hectares (Chhay, 2006). Only five companies were listed: they had signed concession contracts with the Ministry, and the others had only letters of approval in principle for concession proposals (Land law, 2001)

As of December 31, 2006, there were 59 valid concessions remaining (Inter-ministerial Declaration of MAFF and ME, 2014), covering an area of 943,069 hectares in 15 provinces. This area accounts for approximately 5.2% of the total land area in Cambodia and 14.5% of total cultivable land in Cambodia (Chan, 2007; Report, 2004). A list of economic land concessions, including names and locations, is provided (DCRPA, 1989). Stung Treng province has the largest number of economic land concessions, with 10 concession companies covering 179,899 hectares (GDDC, 1988). The provinces with the largest areas granted to concession companies are Kampong Chhnang and Pursat, where two companies have been granted land concessions covering 318,028 hectares (Civil law, 2011). Phep Mex company alone covers these two provinces, covering 315,025 hectares (civil code, 2007). The districts where most of the land has been given to the concession company are Sambor district in Kratie province: Stung Treng and Sesan districts in Stung Treng province, and Phnom Sruoch district in Kampong Speu province (Law on commune, 2011). Figures and information provided by the Ministry of Agriculture, Forestry and Fisheries do not include economic land concessions

of more than 1,000 hectares granted by provincial authorities (Ministry of agriculture, 1996).

Province name	Number of companies	Concession amount	Land area (hectares)
Stung Treng	10	10	179,899
Kampong Speu	8	9	90,256
Kratie	7	7	64,373
Ratanakiri	5	5	53,747
Kampong Cham	5	5	12,070
Kampong Thom	4	4	35,561
Koh Kong	3	3	79,300
Kampot	3	3	36,200
Siem Reap	3	3	19,235
Mondulkiri	2	2	17,600
Oddar Meanchey	2	2	16,000
Sihanoukville	2	2	12,800
Pursat	2	2	141,963
Kampong Chhnang	1	1	176,065
Battambang	1	1	8,000
Total	58	59	943,069

The Ministry of Agriculture, Forestry and Fisheries stated that it was not in a position to provide information on these concessions. It was unable to obtain further information on the number and location of these concessions from government sources (MLMUP, 2001). According to information received from other sources, economic land concessions of more than 1,000 hectares were granted in Kampong Thom, Kratie, Mondulkiri, Oddar Meanchey and Ratanakkiri provinces. Further proposals were under consideration (MLMUP, 2010). At the end of 2006, there was reliable information, such as proposals for economic land concessions. Ten concessions, each no larger than 1,000 hectares, have been proposed to provincial authorities in Mondulkiri province, and another 22 concession proposals in Kratie province are under consideration (Announcement, 2007; Law on commune, 2001).

Economic Land Concession Technical Secretariat

Eight members of the Technical Secretariat for Economic Land Concessions were appointed by the Prime Minister on 30 June 2006 (MLMUP (1994)). On the 1st of August 2006, the Ministry of Agriculture, Forestry and Fisheries established a support group consisting of officials from various ministries to assist the Technical Secretariat in carrying out its duties. To date, the activities of the Technical Secretariat have focused on establishing its functions and mandate, preparing new application forms and contracts for economic land

concessions and providing guidance to companies with environmental and social impact assessments (Law on the Establishment, 1999).

In August 2006, Technical Secretariat sent a notice to contracting authorities, requesting information and documents related to concessions granted prior to Sub-Decree on Economic Land Concessions. (MLMUP, 1988). In January 2007, the Ministry of Agriculture, Forestry and Fisheries stated that the Technical Secretariat was collecting data on economic land concessions from the ministry and authorities (RGPSLC, 2003). The province and that the Economic Land Concession Register would be created upon receipt of this information. There has been no further information on the status of the Economic Land Concession Register since then (Chhay, 2006). With the review of existing economic land concessions, in December 2005, Ministry of Agriculture, Forestry and Fisheries announced that 10 active companies had been re-examined. Apart from the cancellation of concessions that the Ministry mentioned in early 2007, it is not yet clear whether a general review of existing concessions has begun (RGC, 2008, 2011). The largest existing concessions, including Pheaphimex in Pursat and Kampong Chhnang and Green Sea, with 100,852 hectares in Stung Treng province, have not yet been re-examined (Civil law 2011).

Access to information and other documents

Good governance, which is at the core of government's rectangular strategy for growth, jobs, equity, and efficiency, is to ensure full transparency and accountability, such as "The government, including the sale or lease of public property." It is important to know who benefits from the economic land concessions and from the concessioning of Cambodia's land and natural resources (Royal decree, 2006). The 2004 report called for the disclosure of information related to economic land concessions, including contracts, maps, shareholders, and revenues received from concessions (Sub decree, 1999). A number of common monitoring indicators agreed upon by the government and development partners at consultative group meetings in December 2004 and March 2006 call for the prompt public disclosure of concession contracts and contract implementation, and for the establishment of a mechanism for the timely dissemination of information on economic land concessions. (Royal decree 2006).

In mid-2006, Ministry of Agriculture, Forestry and Fisheries created a land concession website. The Ministry of Economy has a website that includes information on all concessions granted and basic company information (<http://www.maff.gov.kh/elc/index.html>). In March 2007, the website was updated to reflect information on concessions up to 31 December 2006 (Sub decree, 1985). Information is provided on all concessions larger than 1,000 hectares, including details about the company. The website lists the names of

company directors, but does not list the names of all concession companies' shareholders. Detailed information is required about the ownership of the concession and the concession companies, including information about all company directors and shareholders (Sub decree, 2005).

No information was provided about concessions larger than 1,000 hectares (Sub decree, 2005). Information must be made available to the public immediately, including details about the concessionaire and its location, size, purpose, and the status of those concessions. Information on economic land concession proposals that are under consideration or have been approved in principle should also be made public, as many concessionaires begin their activities before signing contracts (Sub decree, 2002). On the other hand, information on the implementation of the sub-decree on economic land concessions is necessary, including public consultations and environmental and social impact assessments and reports on these consultations and assessments (Sub decree, 2016).

3. Critical Arguments

Compliance with Legal Requirements and Legal Procedures

The Ministry of Agriculture, Forestry and Fisheries said that it has difficulty complying with the conditions (Sub decree, 2005). The requirements of the sub-decree on the economic land concessions are because the ministry faces pressure from investors seeking land concessions. Officials explained that if the ministry has to wait until it is able to comply with the requirements of the sub-decree before granting the concessions, investors would no longer be interested in investing in Cambodia (Chan, 2007). However, the country's laws are binding, and intention to promote private sector investment cannot be an excuse for not complying with the requirements of the law (Sub decree, 2006). Many concessions have not operated for 12 months from the date of contract signing or have been inactive for more than 12 months without being sanctioned (Sub decree, 2016). Green Sea, which has a land concession of 100,852 hectares in Stung Treng province are not yet operational, despite the start of construction in late 2006 (Announcement, 2003). Other inactive land concession companies include 315,025-hectare concession of Phephimech in Kampong Chhnang and Pursat provinces, which has also not paid its deposit, according to the Ministry of Agriculture, Forestry and Fisheries. Based on information provided by the ministry, many concessionaires have not paid the required concession fees, have not demarcated or measured the concession boundaries, or have lost contact with the ministry. All of these are grounds for cancelling the economic land concession (Sub decree, 2007).

Many concessionaires began operations in areas they applied for concessions before signing the contract, which is contrary to Article 53 of the Land Law. For example, in Koh Kong province, Cabinet approved in principle to award

two concessions to Koh Kong Sugar Industry and Koh Kong Plantation in March 2006. In May 2006, the company established a site and began clearing land in Sre Ambel district, including rice fields and local plantations (Prakas 2014). The concession contract was made later, on August 02, 2006. For example, Another is Wuzhishan Company concession in Mondulkiri province, where the company began working on indigenous lands in mid-2004, before signing the concession contract on December 30, 2005 (RGSPLP, 2009). The land law states that land concessions cannot affect land, footpaths or roads, or waterways, streams, and water reserves that people use in their daily lives. However, many concessions have closed off footpaths. and roads used by residents to access forest areas and forest products. For example, in Kratie province, Global Agricultural Development company was reported to have set up barriers to block roads used by residents in order to collect tolls from road users. In Pursat, Ratanavisal company closed a canal used by residents to irrigate their rice fields after complaints from the community. A year later, the canal was reopened (RGPSLC, 2003.).

Private State Land and Land use Plans

The main conditions for granting the economic land concessions are the registration of land as private state land and the approval of a land use plan, in which land use proposals must be consistent. Systematic identification, classification, and registration of private and public land in state Cambodia has not yet done so, and in most cases, land use plans have not yet been approved by provincial-municipal land management committees. However, economic land concessions continue to be granted. In many cases, the land granted to the company was land that local people had been cultivating for many years, since before 2001, and these communities had met requirements for claiming ownership rights under the land law. In some cases, the local communities had also participated in initiatives for sustainable land and natural resource management through participatory land use proposals or plans to create community-based communities. These initiatives were halted or abandoned after the land was granted to the company. On February 26, 2007, the government issued a long-awaited circular on measures to prevent illegal land occupation to implement Article 18 of the Land Law. However, the circular does not cover economic land concessions, stating that the withdrawal or reduction of the size of economic land concessions must follow the procedures set out in the Sub-Decree on Economic Land Concessions.

Public Consultation and Environmental and Social Assessment

There are two main conditions required before granting an economic land concession, such as consultation Public consultation and environmental and social impact assessments. In most cases, the public consultations are not conducted in the community before the concession is awarded, nor is

assessment Strictly And indeed, due to environmental and social impacts. This is generally not done in advance (Ministry of Agriculture [MA], 1990). For example, the initial environmental and social impact assessments are conducted for concessions of Sophea Trading Company and Sopheakdenika Company in Sesan District, Stung Treng. However, these assessments were conducted in 2006 after land concessions were awarded to both companies on 8 August 2005. According to the provincial environment department, a private development consulting firm that was contacted to conduct the assessment studied the land concession with the participation of locals and the public. However, locals said that they all refused to hand over land in their area to the company representatives. When company representatives came to tell the locals about the company's plans to develop and create jobs in the area in September 2005 and April 2006, the concessionaire held a ceremony for the locals, offering them wine and gifts, such as tractors, to encourage them to agree to the plans. Both concessions encroached on agricultural land and forests that the indigenous communities used to collect forest products. The provincial Department of Environment agreed that the concessions would affect the livelihoods and cultural traditions of the areas occupied by the indigenous people (DCPRP, 1989).

Global Agricultural Development Co. Development Asia World Agricultural Development Company and Green Island Agricultural Development Company have been granted land concessions for planting rice, covering an area of 29,383 hectares in Sambor District, Kratie. The affected communities learned about these concessions in April or May 2006, when a group of local government officials and company representatives visited the area, and a village chief was asked to accompany them to look at the land and forests in the area and to explain to them the types of land and land use in the commune. Six days later, the group made a second visit, accompanied by officials from the provincial environment department and military personnel, and measured the concession boundaries by setting stakes across villagers' rice fields in some areas. The concessionaire then established its base in Kbal Damrey commune and began clearing the forest and digging roads. Similarly, in Samrong District, Oddar Meanchey, Crystal Agro and Real Green signed contracts in June and July 2006, each with a concession of 8,000 hectares for cassava and agro-industrial crops. The affected villagers, including the Tuy ethnic minority, were not informed or consulted. They only learned of the existence of the concession when the company arrived and began clearing land. Real Green began its activities in late October 2006, affecting the residential and agricultural lands of about 70 families in Ktol Village. Crystal Agro began its activities in November 2006, and the company's clearing

activities soon encroached on the agricultural lands and farmlands of many families in Phlong Village.

Further evidence of the lack of public consultation and effective impact assessment is that residents are often unaware of the boundaries of concessions, and in areas with large concessions, they do not know which companies are affecting their land. For example, there are very few companies, six in total, that have been granted concessions in Sesan district, Stung Treng province. Many residents have argued about the impacts By the work activity The company owns the land. Their farms, but there is no information about the boundaries of these companies' land concessions, nor is it known which company affects which village.

Compliance with the Forest Protection Framework

Many economic land concessions are granted in forest areas that are public state land or in areas that were former forest concessions, contrary to the Sub-Decree on Forest Concession Management. These concessions are also granted in areas inhabited by indigenous peoples who have long traditions of using forest resources and wood by-products, such as rubber tapping as a livelihood (RGC, n.d). Since the 2004 report, at least five economic land concessions have been granted in areas formerly occupied by Kingwood Industry in Kratie and Stung Treng provinces (GADC, n.d). Similarly, HMH Co Ltd has been granted an economic land concession in Former forest area GAT International concession in Kampong Thom. In Sesan district, Stung Treng province , the concessionaire felled the trees owned by the local people and from which the resin was extracted, in violation of Article 29 of the Forestry Law. The felling of the trees is considered a forestry offence and a violation of the community's traditional use rights as recognized in Chapter 9 of the Forestry Law. The felling of the trees also occurred outside the Miring rubber plantation in Sandan district, Kampong Thom.

Beneficiaries of economic land concessions

A total of 36 economic land concessions were granted to foreigners or prominent business and political figures, accounting for 61 percent of all economic land concessions granted. This number does not include owners of economic land concessions of more than 1,000 hectares, as information on these concessions and their ownership is not disclosed. Analysis of information provided by the Ministry of Agriculture, Forestry and Fisheries showed that 25 economic land concessions were owned by foreigners, accounting for more than 42 percent of all economic land concessions granted. Of these, 12 are owned by Chinese nationals, 3 by Thai nationals, 3 by Vietnamese nationals, and 3 by Three Americans are Korean and one is Taiwanese. In addition, it was recently reported that Ministry of Agriculture, Forestry and Fisheries has agreed to lease 100,000 hectares of land to 10

Vietnamese companies to grow rubber. So far, 10,000 hectares of land have been leased. Hectares are determined (Cambodia Daily, 2007). Analysis of the same information also revealed that prominent Cambodian business and political figures, including senators and tycoons, own or have stakes in land concessions, at least 11 economic concessions. Other concessions may also be linked to these individuals, but this cannot be confirmed as the list of shareholders of the land concession companies and more detailed information about the beneficiaries of these concessions are not available.

Meeting the objectives of economic land concessions

Economic land concessions are targeted as part of the poverty reduction framework and Rural development, as stated in the National Strategic Development Plan 2006-2010. In particular, it aims to develop land in an appropriate and sustainable manner, based on appropriate environmental systems, increase employment in rural areas and generate national income. However, as this and other reports have shown, economic land concessions do not meet these goals. The analysis *The Price of Poverty* by the World Bank in 2006 recommended small-scale land ownership to increase agricultural production and reduce poverty, rather than large-scale land ownership in the form of agro-industrial plantations. The concessionaires do not manage land appropriately and sustainably within existing environmental systems. And it does not provide tangible benefits to the local community. In general, the concessions do not provide jobs to the affected rural communities. If jobs are available, in most cases, companies bring in workers from other provinces. If local people are hired to work, the wages are low compared to the wages they receive from agricultural and forestry products.

On the other hand, it is unclear how much economic land concessions contribute to Cambodia's national income, and the government should disclose the revenues generated by these concessions (Chan, 2007). Instead of promoting development and poverty reduction, economic land concessions have undermined economic, social and cultural rights of rural communities in Cambodia. Cambodia has not yet submitted its first report under the International Covenant on Economic, Social and Cultural Rights, which was due in 1994. In the current situation, it is essential that Cambodia fulfill its reporting obligation under the Covenant, which is a concrete step towards the effective implementation of the rights set forth in the Covenant. The General Comment of the Economic, Social and Cultural Committee recognized that the right to adequate housing includes a secure and just tenure system, and that sustainable food security for present and future generations is at the core of the right to food (Annual Report [GC], 1991, 1999).

The necessary requirements for additional legal provisions, decentralized planning and implementation structures, as well as the necessary coordination

and cooperation between relevant ministries and government agencies will enable the social land concession program to play a significant role in providing the Royal Government of Cambodia with commitment to good governance. All support for the implementation of social land concession programs must be based on improved governance, which is directly linked to the success of equitable and equitable land distribution. In this sense, social land concession programs will be included in the transformation project category. Good institutions or governance and rural development projects. Coordination and collaboration at the National Social Land Concession Committee (NSLC) seems to be going smoothly. The committee must put pressure on its subordinate decentralized units to overcome any mistrust and ensure cooperation between them. It is also important in the preparation to ensure a clear understanding of what is needed for technical support from higher levels. Since higher administrative levels often underestimate the potential of their decentralized units, it is extremely dangerous to ignore the need for investment in capacity building (Sub-degree, 2002).

The newly established provincial and municipal land use and allocation committees must work closely with the provincial and municipal rural development committees, despite overlapping membership. Coordination between social land concession programs and development programs should not be a problem. However, there is still a need for information campaigns, training, and capacity building, especially addressing the weaknesses of technical support units at provincial, municipal, and sub-decentralized levels. Coordination and collaboration at the district and khan levels between different government agencies appears to be weak in a decentralized structure. Resource availability and/or allocation issues may be major constraints to local work, which is a necessary requirement for district and khan teams. The district and khan levels are perhaps the least capable and resourced levels compared to their expected roles in the program, guidance on priorities and resource allocation, along with the capacity building is an indispensable requirement (Sub-degree, 2000).

Villagers do not yet have full confidence in their elected commune councils. Most villagers would like to see an independent institution that would act as a facilitator for selecting beneficiaries and implementing the social land concession program. Villagers do not seem to have a narrow-minded view of allowing non-Khmer citizens to participate in the social land concession program, but despite this understanding, they would like to see their needs addressed first. The program may encounter some problems from local resistance when it comes to From citizens who do not have Cambodian nationality living in border areas. There are a number of technical aspects of the social land concession program that require careful consideration and/or

adjustment. The main aspects are that the sustainability of land allocated for agricultural production needs to be ensured. Environmental considerations need to be considered. The conversion of degraded land to cropland needs to be examined. The principles of application and selection of beneficiaries need to take into account local conditions/traditions. The initiation of social land concession projects may take longer than expected. Social land concession planning and training on implementation need to be expanded. Non-governmental organizations will play an important role in implemented at the commune and sangkat levels and therefore they must be the most important agents in training Cause related to social land concessions (Sub-degree, 1999).

4. Conclusion

The provision of economic land concessions and social land must follow a proper and legal procedure. The process of granting the land concessions is due to the state's appeal and the appeal of the concessionaire or those who want to make the land concessions. Through the Land Law dated August 30, 2001 and other related documents, the mechanism to obtain land concessions is legally known about the procedures of granting land concessions from the first stage to the end. The state is the one who monitors and monitors the maintenance of state property, including economic land concessions and social land concessions. The state, which is the representative of the public institution, has granted land concessions to concessionaires to extract benefits from the concession. The acquisition of land concessions is in accordance with the land law. The provision of private land is issued by the state through a specific concession contract to concessionaires for use in agricultural and agro-industrial businesses – referring to cultivation of food crops, industrial crops, including the planting of trees as plantations, animal husbandry and aquaculture, construction, such as workshops or factories and equipment for processing agricultural raw materials Local.

Despite the progress, we have also observed some impacts that have been shown to include the lack of consultation with the local communities on land encroachment and the negative impact on their traditional livelihoods. On the other hand, concerns about the encroachment on forest areas by concession companies affected the environment through the use of pesticides and other chemicals that contaminate water and affect the health of communities and livestock. Because of all these concession projects, communities have lost their livelihoods from forest products. Because of all these problems, it causes residents to lose income and face difficulties in solving problems in their daily lives. Competent authority to sign the contract refers to the authority with legal authority to sign economic land concession contracts on behalf of the

Royal Government of Cambodia, exercising that right as granted by the Prime Minister and performing its duties in accordance with the law.

In brief, relevant institutions and authorities must comply with laws, sub-decrees, and other regulations related to land concessions. In particular, one must not do anything that goes against one's ideals and conscience as a Khmer child. One must protect national assets or the assets of the people so that their identity is not lost. Specifically, concessionaires, who have received the right from the state through a contract granting state land concessions, must be respected.

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